



**Public Works Agreement
Roads and Stormdrain
· LETTER OF CREDIT OR ESCROW ·**

THIS AGREEMENT is made this _____ day of _____ (Month), _____ (Year), by and between the Board of County Commissioners of Frederick County, a body corporate and politic of the State of Maryland (hereinafter the "County") and _____ (hereinafter the "Owner"), and _____ (hereinafter the "Contractor").

WHEREAS, the Owner is the owner of certain real property located in Frederick County, Maryland, and described as:

(hereinafter the "Property"); and

WHEREAS, the Owner intends to construct the following public improvements:

on the Property (hereinafter the "Improvements") in accordance with a construction contract between Owner and Contractor (hereinafter the "Construction Contract"); and

WHEREAS, County regulations require Owner to construct the improvements in advance of plat recordation or building permit issuance, or in lieu thereof provide adequate security and enter into a written agreement, wherein Owner agrees, inter alia, to construct and maintain the Public Improvements to obtain approval to record plats or obtain building permits; and

WHEREAS, in consideration for the Owner obtaining the necessary approvals and permission from the County to record lots and construct the private improvements, the Owner has agreed to provide certain security guarantees, in a form acceptable to the County as hereinafter set fourth, in the total amount of _____ dollars (\$_____), in favor to the County to guarantee completion of the Improvements in accordance with County specifications, and approved cost estimate(s).

NOW, THEREFORE, in consideration of the aforesaid premises and recitals and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto do hereby agree as follows:

1. The aforesaid recitals are hereby incorporated herein by reference and made a part of this Agreement.
2. Owner shall cause the Improvements to be constructed and completed, to the County's specifications and satisfaction, within _____ (____) months of the date of this agreement.
3. Owner does hereby deposit with the County a:
☐ Escrow Account,
Or
☐ Letter of Credit,

In form(s) satisfactory and acceptable to the County in the total amount (including 15% contingency) of _____ Dollars (\$ _____),
(hereinafter the "Security").

4. The amount of the aforesaid Security is in accordance with a detailed cost estimate, approved by the Director of the Division of Permitting & Development Review or the Director's designee, which is attached hereto as Exhibit A and incorporated herein by reference, plus a fifteen percent (15%) contingency amount.

5. The Security is deposited with the County to guarantee payment for the construction and completion of the Improvements, as more particularly set forth on the following referenced drawings and plans, with all revisions noted, prepared by _____ and titled:

dated _____, and reviewed and signed by the Director of the Division of Permitting & Development Review or the Director's designee on _____. With the County's approval, the drawings and plans may be revised from time to time, provided that adequate Security is available or provided by Owner to cover any increased costs (hereinafter the "Plans").

6. Owner shall construct and complete the Improvements in accordance with County specifications and those specifications set fourth in the aforestated Plans, which shall be subject to inspection and approval by County inspectors.

7. If Owner does not complete the Improvements within the time set forth in paragraph 2. above, the County may draw upon all or any part of the security as necessary for the completion of the Improvements, and may retain any excess funds for payment of the County's attorney's fees and expenses.

8. Notwithstanding the drawing upon by the County of all or any part of the monies, Owner shall remain liable to the County for the full and total cost of any of the Improvements not completed by the date as set forth in paragraph 2. above.

9. The parties hereto agree that the total of said Security may, in the County's sole discretion, be reduced, by a separate agreement signed by all parties, in proportion to the amount of Owner's actual completion of specific parts of the Improvements to be completed by this Agreement.

10. Prior to the release of all or any portion of said Security, Owner shall provide to County as built drawings showing the Stormwater Management Improvements as actually constructed, proof of Owner's payment for the completed portion(s) of the Improvements, and the County shall inspect said completed Improvements to ensure that the Improvements have been constructed according to County specifications.

11. The Owner shall warrant all Improvements, where applicable, per Maryland State Highway Administration General Provisions for Construction Contracts, Section 4.10 ("County" shall be substituted for "State"). A five percent (5%) retainage of the guarantee will be held until the end of the one (1) year warranty period, with extensions as necessary to provide a full one year warranty on any items repaired or replaced during the applicable warranty period. The warranty period shall begin following written conditional acceptance from the appropriate County inspector.

12. The County shall have the right, in its sole discretion, to approve any changes relating to the construction of the Improvements, or the terms of this Agreement. All such proposed changes shall be in writing and signed by all parties to the document(s) being changed.

13. Owner shall maintain the Improvements (including snow removal) at Owner's expense until such Improvements are accepted by the County for maintenance. Not all improvements will be eligible for acceptance by the County for maintenance.

14. Owner shall be responsible for the erection of street name, stop signs and other signs as determined by the Division of Permitting & Development Review or the Director's designee. All signage must comply with County and Manual of Uniform Traffic Control Devices (MUTCD) requirements.

15. Upon any breach of this Agreement by Owner, Owner shall be liable to the County for all costs and expenses, including attorneys' fees, that the County may incur if the County chooses to complete such Improvements, and County may retain the balance of any Security for payment of such expenses.

16. Owner agrees to obtain, at Owner's sole expense, all easements, which are reasonably necessary for the construction and maintenance of the Improvements, which easements shall be in a form acceptable to the County.

17. Owner shall indemnify and hold harmless the County, its officials, employees, agents and representatives, from any and all claims, actions, suits and demands, of any nature, arising from the construction of the Improvements.

18. Owner warrants that it is the fee simple owner of the Property and that all parties having any right, title or interest in the Property have consented to and joined in this Agreement.

19. All or any part of the provisions of this Agreement shall not be deemed merged in the execution and delivery by Owner to County of a Deed for the Improvements, but shall remain in full force and effect, nor shall County thereby be deemed to have waived any of its rights at law or in equity against owner.

20. The County's Ordinances, Rules and Regulations are incorporated herein by reference, and together with this Agreement contain the entire understanding of the parties and may not be modified or amended unless in writing signed by the parties hereto.

21. This Agreement may not be assigned by Owner without the express prior written consent of the County, which consent will not be unreasonably withheld.

22. This Agreement shall be governed by, interpreted and enforced in accordance with the laws of the State of Maryland, and Owner hereby consents to jurisdiction in the State of Maryland, and venue in Frederick County, Maryland.

23. This Agreement shall be binding upon and shall inure to the benefit of the parties and their respective heirs, personal representative, successors and assigns.

IN WITNESS WHEREOF, the parties hereto have placed their hands and seals as of the date first written above.

WITNESS/ATTEST:

BOARD OF COUNTY COMMISSIONERS OF
FREDERICK COUNTY, MARYLAND

By

Director (SEAL)
Division of Permitting & Development Review

CORPORATION OR PARTNERSHIP NAME:

Witness

Signature: (SEAL)

Name and Title (Please Print)

Witness

Signature: (SEAL)

Name and Title (Please Print)

Review and approved as to form:

County Attorney

(Notarial for: SOLE OWNERSHIP, CO-OWNERSHIP AND PARTNERSHIP)

State of _____ County of _____, to wit:

I HEREBY CERTIFY that on this _____ day of _____ (Month) , _____ (Year) ,
before me, the subscriber, a Notary Public in and for the State and County aforesaid, personally appeared
_____ whose name(s) is/are subscribed to within the instrument, and
acknowledged that he/she executed the same for the purposes therein contained.

Witness my hand and Notarial Seal _____

Notary Public
My Commission Expires: _____

.....
(Notarial for: CORPORATIONS)

State of _____ County of _____, to wit:

I HEREBY CERTIFY that on this _____ day of _____ (Month) , _____ (Year) ,
before me, the subscriber, a Notary Public in and for the State and County aforesaid, personally appeared
_____ who acknowledged him/herself to be the _____ of
_____ a body corporate, and that he/she was authorized by the corporation to
execute this instrument for the purposes contained herein.

Witness my hand and Notarial Seal _____

Notary Public
My Commission Expires: _____

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**(Notarial for: FREDERICK COUNTY DIRECTOR OF THE DIVISION OF PERMITTING & DEVELOPMENT
REVIEW)**

State of _____ County of _____, to wit:

I HEREBY CERTIFY that on this _____ day of _____ (Month) , _____ (Year) ,
before me, the subscriber, a Notary Public in and for the State and County aforesaid, personally appeared
_____ who acknowledged himself/herself to be the Director of Public Works for
Frederick County, Maryland, that in his/her capacity as Director, being authorized to do so, executed the foregoing
instrument on behalf of the Board of County Commissioners of Frederick County, Maryland, a body corporate and politic,
for the purposes therein contained

Witness my hand and Notarial Seal _____

Notary Public
My Commission Expires: _____